

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TONY MAFES,

Case No:

Plaintiff,

-against-

WHITE CASTLE SYSTEM, INC. and INGRAM
FAMILY LIMITED PARTNERSHIP,

Defendants.
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NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants, White Castle System, Inc. (“White Castle”) and Ingram Family Limited Partnership (“IFLP”), by the undersigned counsel, hereby remove to this Court the above captioned action, which was pending against them in the Supreme Court of New York, County of Bronx. Removal is based on the following grounds:

1. On or about September 25, 2020, Plaintiff, Tony Mafes, filed a Summons and Verified Complaint against White Castle and IFLP in the Supreme Court of the State of New York, County of Bronx, under Index No.: 30890/2020E. (A true and accurate copy of the Summons and Verified Complaint are Exhibit “A”.)
2. On September 29, 2020, White Castle and IFLP received copies of the Summons and Verified Complaint filed by Plaintiff. (Copies of the Affidavits of Service are collectively attached hereto as Exhibit “B”.)
3. This Notice of Removal is being filed by White Castle and IFLP pursuant to 28 U.S.C. § 1446(b)(1) within thirty days after receipt of the Summons and Verified Complaint.

4. In this action, Plaintiff asserts causes of action against White Castle and IFLP based upon negligence. (See Exhibit “A”).

5. Specifically, in the Verified Complaint, Plaintiff, Tony Mafes, alleges that he was injured on September 26, 2017 at the White Castle located at 2701 Boston Road, Bronx, NY after a White Castle employee “propelled a cup of hot tea . . . across the counter causing it to spill and burn the plaintiff.” (See Exhibit “A”).

6. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332 due to complete diversity among the parties’ citizenship and because the amount in controversy allegedly exceeds \$75,000 exclusive of interest and costs.

Diversity Jurisdiction Exists

7. Plaintiff resides in the County of Bronx, and therefore is a citizen of the State of New York. (See Exhibit “A”, ¶ 2.)

8. Defendant White Castle is an Ohio corporation and has its principal place of business in Columbus, Ohio. (See Exhibit “C”). Therefore, White Castle is a citizen of Ohio.

9. Defendant IFLP is a limited partnership. (See Exhibit “D”). The general partners of IFLP are listed below:

4. The name and business or residence address of each GENERAL PARTNER is:

Name	Address
<u>Fred R. Ingram, Trustee, The Fred R. Ingram Living Trust</u>	<u>1627 St. Rt. 89, Jeromesville, OH</u>
<u>Georgia J. Ingram, Trustee, The Georgia J. Ingram Living Trust</u>	<u>1627 St. Rt. 89, Jeromesville</u>
	<u>OH 44840</u>

(See Exhibit “D”).

10. Inasmuch as the general partners of IFLP reside in Ohio, IFLP is a citizen of Ohio for purposes of diversity jurisdiction. See, e.g., *Handelsman v. Bedford Vill. Associates Ltd. P'ship*, 213 F.3d 48, 52 (2d Cir. 2000).

Amount in Controversy Exceeds \$75,000

10. In his Verified Complaint, Plaintiff seeks unspecified damages for personal injuries suffered at a White Castle restaurant. (See Exhibit “A”.)

11. On October 27, 2020, in an effort to clarify the injuries Plaintiff was claiming to be causally related to the White Castle accident, Defendants’ counsel forwarded a letter to Plaintiff’s counsel. (A copy of the October 27, 2020 letter (without attachments) is Exhibit “E”.) In the October 27, 2020 letter, Defendants’ counsel asked Plaintiff’s counsel to clarify whether Plaintiff was alleging that his October 23, 2019 right knee arthroscopy was causally related to the White Castle accident. (See Exhibit “E”.)

12. Inasmuch as: a) Plaintiff’s counsel has not yet responded to Defendants’ counsel’s October 27, 2020 letter; and 2) Plaintiff’s counsel included in its September 9, 2020, representation letter to White Castle a copy of the October 23, 2019 operative report related to Plaintiff’s right knee arthroscopy, it appears that Plaintiff is claiming that his right knee arthroscopy was causally related to the White Castle accident.

13. Although Plaintiff does not set forth in the Verified Complaint the amount of damages he is seeking, Defendants reasonably believe that based on the injuries alleged by Plaintiff (i.e., burn and meniscal tear requiring right knee arthroscopy) the amount in controversy exceeds the requisite threshold sum or value of \$75,000.00.

14. This action, therefore, a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446. Furthermore, removal to this judicial district and division is proper pursuant to 28 U.S.C. § 1441 (a) and this is the district and division embracing Bronx County, New York, where the action is pending.

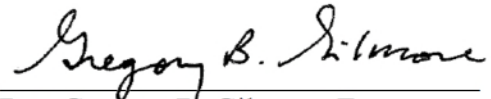
15. This Notice is accompanied by copies of all process, pleadings and orders served upon Defendants in this action.

16. Promptly after this filing this Notice of Removal will be served on Plaintiff, and Defendants will file a copy of this Notice of Removal with the Clerk of the Court for the Supreme Court for the State of New York, County of Bronx.

17. This Notice is signed in accordance with Federal Rules of Civil Procedure 11.

WHEREFORE, Defendants, White Castle System, Inc. and Ingram Family Limited Partnership, respectfully request that this action be removed to this Court.

GOLDBERG SEGALLA, LLP

A handwritten signature in cursive script, reading "Gregory B. Gilmore".

By: Gregory B. Gilmore, Esq.

Attorneys for Defendants

*White Castle System, Inc. and Ingram
Family Limited Partnership.*

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